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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,179	09/30/2003	Loring Pickering		5920

7590 03/08/2004  
Loring Pickering  
598 Park Blvd.  
Ukiah, CA 95482

EXAMINER

FRANCIS, FAYE

ART UNIT PAPER NUMBER

3712

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,179

Applicant(s)

PICKERING ET AL.

Examiner

Faye Francis

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 3 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 3 is drafted in such a way that it appears to be entirely functional. The claim is vague and indefinite because, the additional structure sought to be encompassed in the claim cannot be determined.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins in view of Johnsen.

Perkins discloses in Figs 1-2, a flying disk accessory comprising: a C shaped member [yoke 14], a handle member 16 having a gripping portion [the thicker part of the handle 16] at one end and an attached elongated rod shaped [the narrower part of the handle 16] at the opposite end. Additionally, Perkins discloses, the C shape having a U shaped cross section [channel 26] where the legs of the U shape are facing toward the center of the C shape, the C shape having a hinge joint [pivot 18 and elastic band 36] near the junction of the C shape so that the rod portion is fixedly joined to the lower portion of the C shape as recited in claim 1.

Perkins does not disclose a spring biased hinge joint and the C shape ends each curving outwardly in the opposite direction of the curve of the main body of the C shaped member as recited in claim 1.

Johnsen teaches that it is conventional to have a target thrower device having a spring, biased hinge joint [col 1 lines 6-13] in order to have a considerable movement relative to the handle. It would have been obvious to one of ordinary skill in the art at the time the invention was made, in view of Johnsen to provide the device of Perkins with spring, biased hinge joint in order to control the movement of the C shaped member [yoke 14] with respect to the handle.

Furthermore, Johnsen is cited to show a desirability, to have target holder including two ends curving outwardly in the opposite direction of the curve of the main body. It would have been obvious to further provide the modified device of Perkins with the missing elements as taught by Johnsen in order to easily project the target and with greater velocity and accuracy or as a design expedient.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins in view of Johnsen as applied to claims 1 and 3 and further in view of Minneman et al, hereinafter Minneman.

Modified device of Perkins has most of the elements of this claim but for the requirement that the handle member includes a hinge pin.

Minneman teaches the concept of providing a disk thrower device with a handle member [neck 30, adjuster 12 and handle 10] having a hinge pin [fastener 54]. It would have been obvious to further provided the handle in the modified device of Perkins with the hinge pin as taught by Minneman in order to move the yoke to different positions.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

### ***Conclusion***

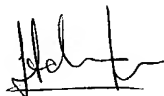
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FF



Jacob K. Ackum  
Primary Examiner